



Crl.O.P.No.20453 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.20453 of 2022
and Crl.M.P.No.13425 of 2022

Manickam

... Petitioner

Vs

The State rep. by
The Inspector of Police,
Konganapuram Police,
Salem District.
(Cr.No.141 of 2020)

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records pertaining to the order dated 07.02.2022 made in Cr.M.P.No.851 of 2021 in Spl.S.C.No.33 of 2021 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Salem and set aside the same.



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For Petitioner : Mr.A.Saravanan

For Respondent : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for the records pertaining to the order dated 07.02.2022 made in Cr.M.P.No.851 of 2021 in Spl.S.C.No.33 of 2021 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Salem and set aside the same.

2. It is seen that the petitioner is a sole accused and he is facing charges under the POCSO Act. The prosecution has taken chief examination for P.W.1 to P.W.7 on 27.10.2021. However, the petitioner was not present on that day. Therefore, the petitioner filed a petition under Section 311 Cr.P.C to recall P.W.1 to P.W.7 for cross examination. However, the trial Court partly allowed and dismissed the petition to recall P.W.2, P.W.5 and P.W.7. Challenging the same, the petitioner has filed this petition.



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3. Heard both sides.

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4. Considering the facts and circumstances of the case, this Court is of the considered view that P.W.2 is none other than the victim child in the case and the trial Court has rightly dismissed the petition filed under Section 311 Cr.P.C to recall P.W.2, P.W.5 and P.W.7 on the ground that the provision under Section 33(5) of POCSO Act, as mandate that the Special Court shall ensure that the victim child should not be called repeatedly to testify in the Court.

5. In view of the above, this Court finds no infirmity or illegality in the order passed by the Court below. Therefore, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

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Index:Yes/No
Speaking/Non speaking order
Anu



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To

- 1.The Principal Special Court for Exclusive Trial
of Cases under POCSO Act, Salem.
2. The Inspector of Police,
Konganapuram Police,
Salem District.
- 3.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.
Anu

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